



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 16, 1998

Mr. Robert E. Luna  
Law Offices of Robert E. Luna  
4411 North Central Expressway  
Dallas, Texas 75205

OR98-0715

Dear Mr. Luna:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113175.

The Northwest Independent School District (the "district"), which you represent, received a request for (1) the Mitel/Cutter contract and proposal, (2) contracts and proposals submitted in reference to the Data Networking Equipment Request for Proposal, and (3) any other pertinent information.<sup>1</sup> You state that the district has already provided the requestor with a copy of the proposed Mitel/Cutter contract and copies of the line item bids on the data networking equipment. However, you believe that some responsive information may be excepted from disclosure under section 552.110 of the Government Code.

You submitted to this office as responsive to the request proposals from Cutter Systems, Inc. ("Cutter"), Choice Solutions, Inc. ("Choice"), and Anixter, Inc. ("Anixter").<sup>2</sup> As provided by section 552.305 of the Open Records Act, this office provided Cutter, Choice, and Anixter the opportunity to submit reasons as to why the information at issue should be withheld from disclosure. The district has made no argument concerning the applicability of section 552.110 to the submitted information. Neither Anixter nor Choice submitted any arguments to this office providing any reason why their proposals should be excepted from disclosure. *See* Open Records Decision No. 363 (1983) (third party has duty to establish how and why exception protects particular information). Thus, the Anixter and Choice proposals are presumed public and must be disclosed.

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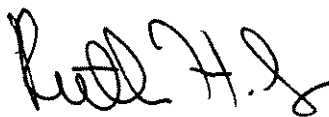
<sup>1</sup>The requestor made his first request for this information on December 1, 1997, then renewed the request on January 23, 1998.

<sup>2</sup>We note that Alltel Supply sent a letter to this office concerning this request, however, no information from Alltel Supply was submitted to this office as responsive to the request.

Cutter submitted a letter to this office stating that its proposal is proprietary and urging that its proposal "be guarded as trade secrets, commercial information, or financial information" under section 552.110. Section 552.110 provides an exception for "[a] trade secret or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." Section 552.110 refers to two types of information: (1) trade secrets, and (2) commercial or financial information that is obtained from a person and made privileged or confidential by statute or judicial decision. Open Records Decision No. 592 (1991) at 2. However, Cutter has not shown the applicability of section 552.110 to its proposal. Thus, the Cutter proposal also must be disclosed. *See* Open Records Decision No. 363 (1983) (third party has duty to establish how and why exception protects particular information).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 113175

Enclosures: Submitted documents

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